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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/729,269  
Filing Date: December 08, 2003  
Appellant(s): BRITT, JOHN T.

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For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed September 29, 2009 appealing from the Office action mailed March 2, 2009.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The amendment after final rejection filed on May 8, 2009 has been entered.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

## **(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

## **(8) Evidence Relied Upon**

6,574,561	ALEXANDER et al.	6-2003
6,346,885	CURKENDALL	2-2002

## **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (US 6,574,561) in view of Curkendall (US 6,346,885).

Regarding claim 1, Alexander discloses a system for managing information and collection of samples at remote locations including a client-server system (10, Fig. 1) comprising at least one portable device (12, col. 7 line 37+) having some capabilities of a personal computer, wherein the portable device may be used for collecting,

preserving, integrating, processing, and communicating some of the information (col. 7 line 55+), at least one computer (26, 28, col. 10 line 5+), wherein the computer communicates with the portable device and may function as said server to process data and run software applications, at least one instrumentation device (camera, etc., col. 8 line 60-65) for collecting some of said samples (images, bar codes, biometric data, col. 8 line 60-65) that communicates directly with the portable device, at least one hardware interface employed between the portable device and instrumentation device (inherent since two devices are connected and operating), at least one software interface employed between the portable device and instrumentation device (inherent since two devices are connected and operating), at least one software program for running a geographic information system (col. 8 line 35-40, GPS), and at least one communications device (24, internet, 18, communication network, wireless hardware) that facilitates communication between the portable device, the computer, and the instrumentation device.

The system of Alexander differs from the claimed invention in that it does not include a device to provide coded labels to facilitate tracking of samples.

Curkendall discloses a system for managing information and collection of samples at remote locations (see abstract) including a device to provide coded labels to facilitate tracking of samples (col. 10 line 55-57).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Alexander to include a device to provide coded labels

for samples, as taught by Curkendall, to enable efficient, accurate gathering, cataloging, and communication of field data (see Curkendall, col. 1 line 14-21, Alexander, abstract).

Regarding claim 2, the communications device is a wireless device (Alexander, col. 8 line 20+). Regarding claim 3, the instrumentation device is a digital camera. Regarding claim 4, the information could come from a variety of sources, including data entry forms, GPS data, audio, etc. Regarding claims 5 and 6, the portable device and computer could be a PDA, laptop, mainframe, etc. Regarding claim 7, bar codes are a well-known means for inventorying items and the printer could provide this. Regarding claims 8-18, the features of the invention recited in these claims have already been addressed in the rejection above. Furthermore, features such as the particular means for identifying and managing (merging, tagging, time stamping, etc.) data or samples, the particular type and details of the software used, and particular nature of the data are matters of design choice since they do not affect the nature or functioning of the invention and do not solve any stated problem or serve any particular purpose.

#### **(10) Response to Argument**

Appellant's arguments have been fully considered but they are not persuasive. Appellant argues that the examiner did not make a *prima facie* case of obviousness in either of the rejections. In particular, appellant argues that the prior art references are not relevant to the problem addressed by appellant's invention, i.e., an automated system for managing collection of samples that is capable of deployment with a single individual and enables accurate, inexpensive, efficient collection and processing of

samples in abnormal environmental conditions. Appellant further argues that the prior art references do not disclose all the recited features of the claimed invention, in particular, that the prior art do not show automated collection of samples, various hardware and software interfaces, barcode stamps, or readers. Appellant also argues that there is no motivation to combine the teachings of the prior art references and that the inventions of the prior art are non-analogous art.

The examiner disagrees and stands by the rejection. In the examiner's view, the inventions of the prior art references, which are related to automated gathering of samples at geographically remote locations, are directly related to the claimed invention and would constitute analogous art. Alexander states (see abstract) that the system is for automated gathering of field information that describes the condition of specific geographical locations at specific times. The system includes devices to take pictures, read bar codes, determine direction, and to take various bio-metric readings (col. 8 line 60-65), all of which the examiner interprets to be samples. Curkendall discloses a system that enables electronic tracking of processing events related to meat animals and collection of samples at remote locations (abstract, col. 1 line 15-20), including a device to provide coded labels to facilitate tracking of samples. Both of these inventions describe an automated system for managing collection of samples that is capable of deployment with a single individual and enables accurate, inexpensive, efficient collection and processing of samples in abnormal environmental conditions (Alexander, col. 1 line 47-50, provide timely and accurate information to individuals in automatic manner, Curkendall, col. 1 line 17-21, using data entry devices to minimize keyboard

entry, i.e., for accuracy). The issues related to collection of samples, various hardware and software interfaces, barcode stamps, readers, etc., have been clearly addressed in the rejection above. Also, the motivation for combining the prior art teachings can be found in the rejection above. It states that the motivation is to enable efficient, accurate gathering cataloging, and communication of field data (see Curkendall, col. 1 line 14-21, Alexander, abstract), which is the general purpose of both the prior art inventions.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Christopher R Buchanan/

Examiner, Art Unit 3627

Conferees:

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

Vincent Millin /vm/

Appeals Practice Specialist



